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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,231	06/30/2000	Jeffrey Bryson	704-P-1-USA	2817

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Drummond & Duckworth  
5000 BIRCH STREET  
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Newport Beach, CA 92660

EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/609,231

Applicant(s)

BRYSON, JEFFREY *ST*

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)          |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. <u>15</u> .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Withdrawal of Finality***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Based on an interview between applicant's representative Mr. David Duckworth and the examiner's acting SPE, Mr. Jeffrey Smith dated: 16 June 2004 an agreement was reached to have the examiner withdraw the finality and provide the applicant a more detailed Office Action for the applicant to prosecute. The examiner now relies upon and has endeavored to present such rejection in a clearer more readily understandable manner.

***Examiner's Note***

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 1-5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Official Notice.**

**In regards to claim 1**, Roberts discloses a network system for facilitating the negotiation and purchase of goods or services for buyers and sellers, the system comprising:

- a host processor system (abstract, call center server);
- at least one buyer computer terminal including a display, operated by a buyer of goods or services (FIG 1));
- at least one seller computer terminal including a display, operated by a seller of goods or services (FIG 1, second computer);
- a first real time two-way communication connection for connecting said buyer computer terminal to said seller computer terminals through said host processor system (FIG 6)),
- said first communication connection for transmitting transaction data, input by a buyer into said buyer computer terminal, in real time to said seller computer terminal for display to the seller and for transmitting transaction data input by a seller into said seller

computer terminal in real time to said buyer computer terminal for display to the buyer (col 11, line 53 – col 12, line 14);

a second real time two-way communication connection for connecting a buyer operating said buyer computer terminal and a seller operating said seller computer terminal (FIG 6),

said second communication connection connected simultaneously during said first communication connection and permitting real time two-way speech communication between buyers and sellers for facilitating the real time spoken negotiations for the purchase and sale of goods or services over the network system (FIG 6), Applicant may argue that Roberts does not specifically mention that negotiations are taking place even though the abstract specifically states synchronous collaboration between a buyer and a sales representative and conducting business over the telephone and the internet (col 3, lines 5-10). However, it was old and well known in art at the time of the invention to have sales representatives conduct negotiations to finalize deals. Therefore, it would have been obvious to a person having ordinary skill in the art to include in Roberts providing negotiations in the real time communications network of Roberts, because this would allow the sales representatives to discuss terms and finalize a deal with a person over the internet and enhance the communication by supplementing any visual communication with audio communication.

Roberts teaches a sales group communications with a buyer, but does not specifically mention that there is a sales agreement means. It was old and well known at the time of the invention to provide a sales agreement means when conducting sales. It

would have been obvious to a person having ordinary skill in the art to include in Roberts providing a sales agreement means, since this would provide a legal vehicle for closing the sale and means for collection money and processing the purchased item to the buyer and reduce risk.

**In regards to claim 2**, Roberts teaches wherein said first connection means includes the global network system commonly referred to as the Internet (FIG 16).

**In regards to claim 3**, Roberts teaches wherein said second connection means includes a telephone connection connecting two telephones for permitting a buyer and seller to talk with one another (FIG 16).

**In regards to claim 4**, Roberts teaches wherein said second connection means is a two-way audio link transmitted over the Internet (col 5, lines 51-67).

**In regards to claim 5**, Roberts teaches the sale of goods over the internet using simultaneous voice and visual communication between a buyer and seller, but does not specifically mention that the information includes purchase data and a description of goods or services for sale by the seller along with an offer price for the goods or services. It was old and well known at the time of the invention to include in a sale over the Internet purchase data including a description of goods or services for sale by the seller and an offer price for the goods or services. It would have been obvious to a

person having ordinary skill in the art to include in Roberts data which contains a description of goods or services for sale by the seller and an offer price for the goods or services, because this has notoriously been a well known method of providing the buyer information about a product for sale over the internet, and is considered the essence of e-commerce's ability to provide information to a buyer from sellers.

**Claims 1,6-11,16,18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahluwalia (US 6,728,685) in view of Roberts.**

**In regards to claims 1,6- 10**, Ahluwalia teaches a plurality of sellers terminals using a common database to store information regarding inventory for sale from the plurality of sellers (col 11, lines 10-30), but does not specifically mention that the each sellers terminal includes a database storing the sellers inventory of goods. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the inventory of each seller at their respective terminals, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Ahuwalia further teaches.

- said host processor system being connected to said databases for accessing said inventories including inventory analysis means for analyzing said inventories for connecting a buyer terminal to a selected

seller terminal based upon buyer identification information provided by the buyer terminal (col 12, lines 15-25).

- wherein said buyer identification information includes the buyer's location (FIG 25A, Item 1577).
- wherein said buyer identification information further comprises a description of the goods or services sought to be purchased (FIG 27b, item 1741).
- wherein the goods or services include vehicles (col 5, lines 53-62).
- wherein the goods or services include vehicles (see response to claim 9).

Ahuwalia, also teaches a customer assistance center/business assistance center, and customer service representatives (CAC/BAC CSR) that are connected with the system and are available to negotiate (see abstract and summary), but does not specifically mention the two way sales features described in claim 1. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include in Ahuwalia, the two way real time communication of Roberts as shown in claim 1, because this would provide an improved method for closing the sale, since some people prefer to talk directly with a sales representative as is taught by Roberts, thus increasing



the likelihood of closing the deal and would increase the time of response (Roberts col 1, lines 57-67).

**In regards to claim 11**, Ahluwalia discloses a network system for facilitating the negotiation and purchase of goods or services for buyers and sellers, the system comprising:

a host processor system (FIG 7B);

at least one buyer computer terminal including a display, operated by buyer of goods or services (FIG 7B);

at least one primary seller computer terminal including a display, operated by a primary seller of goods or services (FIG 7B);

Ahluwalia teaches a customer assistance center/business assistance center, and customer service representatives (CAC/BAC CSR) that are connected with the system and are available to negotiate. Applicant's disclosure further states that the virtual seller and primary sellers have an identical function (specification, page 30). Ahluwalia, however does not specifically mention that there is a virtual seller and a primary seller. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a virtual seller and a primary seller, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis co.*, 193 USPQ 8.

said virtual seller including a database storing product information concerning the goods or services of the primary seller (col 20, lines 55-60);

a first real time two-way communication connection for selectively connecting said buyer computer terminal to said primary seller computer terminal or said virtual computer seller through said host processor system,

said first communication connection for transmitting transaction data concerning the purchase of goods or services of said primary seller, input by a buyer into said buyer computer terminal, in real time to said seller computer terminal or to said virtual seller computer terminal for display to said seller and for transmitting transaction data, input by a seller into said seller computer terminal of said virtual seller computer terminal, in real time to said buyer computer terminal for display to the buyer;

said host processor system including processing means for selectively connecting a buyer computer terminal to either a primary seller computer terminal or a virtual seller computer based upon predetermined criteria, and

a sale agreement means for enabling a buyer to reach an agreement concerning the purchase of goods or services from a seller over the network system (see response to claims 7-10).

**In regards to claim 16**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**In regards to claim 18**, Ahluwalia teaches

a second communication connection for connecting a buyer operating said buyer computer terminal and a primary seller operating said primary seller computer terminal or virtual seller operating said virtual seller computer terminal,

said second communication connection permitting real time speech communication between buyers and sellers for facilitating the real time spoken negotiations for the purchase and sale of goods or services over the network system (see response to claims 1 and 11).

**In regards to claim 20**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**Claims 14,15,17,21-27,35-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahluwalia (US 6,728,685) in view of Roberts and Further in view of Official Notice.**

**In response to claims 14 and 15**, the combination of Ahluwalia/Roberts determining whether the primary seller has goods or services sought to be purchased by the buyer and the use of zip codes from both buyers and seller, but does not specifically mention the location features of these two claims. It was old and well known in the art at the time of the invention to locate and match buyers and sellers by geographic location. It would have been obvious to a person having ordinary skill in the art to include in Ahluwalia/Roberts the location features of the instant claims, because

this would provide the buyer with the location of stores that are close by thus saving a long trip to pick up the product, saving time and effort.

**In regards to claim 17**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**In regards to claim 21**, Ahluwalia discloses a method of facilitating the negotiation and purchase of goods or services for buyers and sellers comprising the steps of

providing a host processor system interconnected with a plurality of sellers and buyers of goods or services;

transmitting buyer identification information by a buyer of goods or services to the host processor system;

selecting one of the plurality of sellers based upon the buyer identification information by the buyer;

providing a real time two-way data connection between the buyer and the selected seller for transmitting transaction data from the buyer in real time for visual display of the purchase data to the seller and for transmitting transaction data concerning the purchase of goods or services of said primary seller from the seller in real time for visual display of the purchase data to the buyer;

providing a real time two-way speech connection between the buyer and the selected seller connected simultaneously during said first communication connection

and for permitting real time speech communication between the buyer and the selected seller for facilitating the real time spoken negotiations for the purchase and sale of goods or services, and

agreeing over the network system to the purchase of goods or services from a seller (see response to claim 5,11,14 and 15).

**In regards to claim 22**, Ahluwalia teaches wherein the buyer identification information provided by the buyer includes the buyer location (see response to claims 14 and 15).

**In regards to claim 23**, Ahluwalia teaches compiling inventory records by the plurality of sellers corresponding to the inventory of goods or services offered for sale by the plurality of sellers;

transmitting the inventory records from the plurality of sellers to the host processor system; and

wherein the buyer identification information by the buyer includes a description of goods or services sought to be purchased (see response to claims 6-10).

**In regards to claim 24**, Ahluwalia teaches searching the inventory records for a seller having goods or services sought to be purchased by a buyer; and

the step of selecting one of the plurality of sellers is based upon results of searching the inventory records for a seller having goods or services sought to be purchased by the buyer (see response to claims 6-10).

**In regards to claim 25**, Ahluwalia teaches obtaining credit and financial information from a buyer; and

determining whether the buyer is financially capable of paying for goods or services sought to be purchased based upon the credit and financial information of the buyer (col 8, lines 32-46).

**In regards to claim 26**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**In regards to claim 27**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**In regards to claim 35**, Ahluwalia teaches wherein the goods or services include vehicles (see response to claim 9).

**In regards to claim 36**, Ahluwalia teaches wherein the goods or services include vehicles (col 5, lines 53-62).

**In regards to claim 37**, Ahluwalia discloses a method of facilitating the negotiation and purchase of goods or services for buyers and sellers comprising the steps of

providing a host processor system interconnected with a plurality of sellers of goods or services;

providing at least one buyer of goods or services corresponding to buyer identification information;

transmitting buyer identification information from the buyer of goods or services to the host processor system;

selecting one of the plurality of sellers by the host processor based upon the buyer identification information;

providing a two-way real time communication connection between the buyer and the selected seller through the host processor system

including a data connection for transmitting transaction data from the buyer in real time for visual display of the purchase data to the seller and for transmitting transaction data from the seller in real time for visual display of the purchase data to the buyer, and

agreeing over the network system to the purchase of goods or services from a seller (see response to claim 5).

**In regards to claim 39**, Ahluwalia teaches wherein the communications connection includes a speech connection between the buyer and the selected seller for

permitting real time speech communication between the buyer and the selected seller for facilitating the real time spoken negotiations for the purchase and sale of goods or services (see response to claim 5).

**Claims 12,13,19 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahluwalia in view of Roberts and further in view of Kannan (2001/0054064).**

In regards to claims 12 and 13, the combination of Ahluwalia/Roberts teaches a Customer service representative that fields calls from customers from various different entities 24 hours a day including dealers and manufactures, but does not specifically mentioned that the calls are answered because the primary seller is not available. Kannan teaches a CSR being located at a plurality of locations (page 5, para 71). Kannan also teaches business rules in deciding whether to apply a live operator (page 6, para 80), regulating customer service according to the policy of a company (dealer) and intelligent routing where live operators are associate with calls based on availability and matching characteristics (page 5, para 94 - page 10, para 120). It would have been obvious to a person having ordinary skill in the art to include in Ahluwalia the multiple locations of the CSR and rules for determining availability of CSR's as taught by Kannan, because this would provide increased availability of CSR's that are qualified to complete a transaction thus providing improved service to the customer and shorter waits (page 8, para 96).



Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the representative and databases at any location, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

**In regards to claim 19**, Ahluwalia teaches a second communication connection for connecting a buyer operating said buyer computer terminal and a primary seller operating said primary seller computer terminal or virtual seller operating said virtual seller computer terminal,

said second communication connection permitting real time speech communication between buyers and sellers for facilitating the real time spoken negotiations for the purchase and sale of goods or services over the network system (see response to claims 1 and 11).

**In regards to claim 28**, Ahluwalia discloses a method of facilitating the negotiation and purchase of goods or services for buyers and sellers comprising the steps of:

providing a host processor system interconnected with at least one primary seller of goods or services,

at least one virtual seller who is not the primary seller including a database storing product information concerning the goods or services of the primary seller; and  
a plurality of buyers of goods or services;

transmitting buyer identification information by a buyer to the host processor system;

selecting the virtual seller or a primary seller by the host processor system based upon predetermined criteria;

providing a real time two-way data connection between the buyer and the selected primary seller or virtual seller for transmitting transaction data from the buyer in real time for visual display of the purchase data to the seller and for transmitting transaction data from the seller in real time for visual display of the purchase data to the buyer, and

agreeing over the network system to the purchase of goods or services from a seller (see response to claims 11,12 and 13) .

**In regards to claim 29**, Ahluwalia teaches determining whether the primary seller has ceased sales operations; and

selecting the virtual seller or a primary seller by the host processor system is based upon the determination of whether the primary seller has ceased sales operations (see response to claims 12 and 13).

**In regards to claim 30**, Ahluwalia teaches wherein said primary seller operates and ceases sales operations during predetermined periods of the day (see response to claims 12 and 13).

**Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahluwalia in view of Roberts in view of Kannan (2001/0054064) and Further in view of Official Notice.**

**In regards to claim 31**, Ahluwalia teaches determining the location of the buyer;  
and

the step of selecting the virtual seller or a primary seller by the host processor system is based upon the determination of the location of the buyer (see response to claim 15).

**In regards to claim 32**, Ahluwalia teaches determining the location of the buyer  
(see response to claim 13); and

determining what goods or services are sought to be purchased by the buyer;  
and

the step of selecting the virtual seller or a primary seller by the host processor system is based upon the determination of the location of the buyer and the determination of what goods or services are sought to be purchased by the buyer (see response to claim 15).

**In regards to claim 33**, Ahluwalia teaches providing a second communication connection between a buyer and a primary seller or virtual seller (see response to claim 18),

the second communication connection permitting real time speech communication between the buyers and sellers for facilitating the real time spoken negotiations for the purchase and sale of goods or services over the network system (see response to claim 5,11).

**In regards to claim 32**, Ahluwalia teaches providing a second communication connection between a buyer and a primary seller or virtual seller,

the second communication connection permitting real time communication between the buyers and sellers for facilitating the real time spoken negotiations for the purchase and sale of goods or services over the network system (see response to claim 5).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
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**(703) 746-7206** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.



Mark Fadok

Patent Examiner